SASKATCHEWAN INFORMATION AND PRIVACY COMMISSIONER

BUSINESS PLAN

2005 -- 2008

Accountability Statement

The Office of the Saskatchewan Information and Privacy Commissioner (OIPC) is accountable to the Legislative Assembly of Saskatchewan and to the people of the province of Saskatchewan.

This Business Plan for the three years commencing April 1, 2005 was prepared under my direction. This Business Plan will guide and shape our activities and internal organization during that same period. Such a plan is important in the early years of our new office with a full time Information and Privacy Commissioner.

This Business Plan will constitute the basis of our budget submissions to the Board of Internal Economy and the Legislative Assembly of Saskatchewan for the next three years.

Since the mandate of this office is very broad and in part reactive to issues that may arise and matters initiated by citizens, this Business Plan may have to be modified from time to time to accommodate those appropriate activities. Subject to that caution and given the appropriate resources, I am committed to achieving the planned results laid out in this Business Plan.

R. Gary Dickson, Q.C.
Saskatchewan Information and Privacy Commissioner

The Office of the Saskatchewan Information and Privacy Commissioner

This office has been created pursuant to Part VI of *The Freedom of Information and Protection of Privacy Act* ("FOIP") that came into force in 1992. The office oversees three different provincial statutes, namely:

The Freedom of Information and Protection of Privacy Act ("FOIP Act")
The Local Authority Freedom of Information and Protection of Privacy Act ("LA FOIP Act")
The Health Information Protection Act ("HIPA").

The mandate includes the following:

- Engage in or commission research into matters affecting the carrying out of the purposes of the FOIP Act and HIPA;
- Conduct public education programs and provide information concerning the FOIP Act and HIPA;
- Receive representations concerning the operation of the FOIP Act and HIPA;
- Offer comment on the implications for privacy protection of proposed legislative schemes or government programs or proposed programs of local authorities;
- Offer comment on the implications for personal health information of proposed legislative schemes or programs of trustees;
- After hearing the head or trustee, recommend that a government institution or trustee:
  - cease or modify a specified practice of collecting, using or disclosing information that contravenes the FOIP Act and HIPA; and
  - destroy collections of personal information that is collected in contravention of the FOIP Act and HIPA;
- In appropriate circumstances, authorize the collection of personal information in a manner other than directly from the individual to whom it relates;
- From time to time, carry out investigations with respect to personal information in the possession or under the control of government institutions or local authorities to ensure compliance with Part IV of the FOIP Act and Part IV of the LA FOIP Act;
- Review a decision of a head in response to an access request, a decision of a head to extend the time to respond to an access request, or a decision of a head with respect to a third party claim;
- Review a failure of a head to respond to an application for access within the required time;
- Review a failure or refusal of a head to make a requested correction of personal information;
- Comment on the implications for protection of personal health information of any aspect of the collection, storage, use or transfer of personal health information.

Our Early Experience

The first full-time Commissioner started work in November 2003. The Office Manager and the Assistant to the Commissioner were appointed in March, 2004. Throughout the calendar year 2004, this office was overwhelmed with the response from the Saskatchewan public, government institutions, local authorities and health information trustees. In that time, the office has:

- Made approximately 150 presentations on access and privacy in more than 16 different Saskatchewan communities;
- Created a website, www.oipc.sk.ca;
- Created and produced 12 issues of our E-newsletter, the Saskatchewan "FOIP FOLIO";
- Dealt with approximately 152 requests for review (there were only 82 in 2003);
- Initiated the conference, *Privacy Laws and Health Information: Making it Work*, attended by approximately 400 participants to hear more than 40 speakers from five different provinces;
- Undertaken a major privacy review of the Prevention Program for Cervical Cancer (PPCC);
- Undertaken and published an analysis of the Overarching Privacy Framework for Executive Government;
- Undertaken and published an analysis of the Draft Regulations under *The Health Information Protection Act*; and
- Provided a good deal of informal, general advice on statutory compliance to members of the public, Crown Corporations, Departments, Agencies and Commissions, local authorities and health information trustees.

On the basis of that early experience, it has become imperative to develop a comprehensive longer-term plan to ensure that our resources are directed to best advantage and most strategically. That led to the decision to produce this three year plan. It will be revised from time to time. Our intention is to publish this on our website to ensure that these plans are as transparent as possible to the people of Saskatchewan.

Our Vision

Saskatchewan government institutions and local authorities operating in a fashion that is as transparent as possible and with the greatest sensitivity to the privacy of the people of Saskatchewan, all in accordance with the provisions of the applicable legislation.

Saskatchewan health information trustees operating in a fashion that fully respects the privacy rights of the people of Saskatchewan guaranteed by *The Health Information Protection Act* and *The Canadian Charter of Rights and Freedoms*.

Our Mission

To ensure that the residents of Saskatchewan enjoy the full measure of the information rights (access to information and privacy) guaranteed by the laws of Saskatchewan.

Our Core Businesses

Core Business 1: Reviews of decisions on access requests

Goal 1	*Reduce time to complete reviews*
Goal 2	*Publish a body of review reports and recommendations*
Goal 3	*Increase awareness on the part of government institutions, local authorities and health information trustees of statutory requirements*

Core Business 2: Reviews of breach of privacy complaints

Goal 4	*Reduce time to complete investigations*
Goal 5	*Publish a body of investigation reports*
Goal 6	*Increase awareness on the part of government institutions, local authorities and health information trustees of statutory requirements*

Core Business 3: Trustee/Government Institution/ Local Authority Compliance

Goal 7	*Improve overall compliance by government institutions, local authorities and health information trustees with respect to FOIP, LAFOIP and HIPA*
Goal 8	*Publish aids and tools that will assist public bodies in statutory compliance efforts*

Our Core Businesses

Core Business 4: Clarifying the Access and Privacy Regime In Saskatchewan

Goal 9 — ***Provide advice to the Legislative Assembly on the consolidation and amendment of the FOIP and LA FOIP Acts***

Core Business 5: Public Education

Goal 10 — ***Undertake public education initiatives throughout the province with a wide variety of organizations***

Significant Opportunities and Challenges

Privacy Framework for Executive Government

In September 2003 the Saskatchewan government adopted the Overarching Privacy Framework for Executive Government. This decision has elevated awareness and expectations of the public and the public service in terms of privacy. The adoption of a private sector privacy code for the Saskatchewan public sector also raises a number of potential difficulties in terms of achieving full compliance with the FOIP Act. Our concerns with the Privacy Framework are enumerated in our Report on the Overarching Privacy Framework for Executive Government available at our website: www.oipc.sk.ca.

We anticipate that the roll-out of the Privacy Framework will continue to generate many calls and questions to our office for information and advice. There will be a continued need for consultation with departments and Crown Corporations.

HIPA Regulations

The government published draft regulations under *The Health Information Protection Act* in August, 2004. We responded by publishing our *Report on the Draft Health Information Protection Act Regulations* on our website, www.oipc.sk.ca.

There has been and will continue to be a role for our office in discussions with Saskatchewan Health and individuals and organizations as those regulations continue to be developed.

Prevention Program for Cervical Cancer

Early in 2004 this office undertook a review of the Prevention Program for Cervical Cancer. We have received complaints concerning the program from more than 100 Saskatchewan women. This review is also significant since it is the first of its kind under the new *Health Information Protection Act*. This has entailed hundreds of hours of work and is still not complete at the end of 2004. This review has clearly highlighted the inadequacy of our current resources to undertake this important work without compromising the other mandated work of our office.

Significant Opportunities and Challenges

Contracting Out

We anticipate a good deal of work will be required to ensure that the personal information of Saskatchewan residents is protected in cases where government institutions, local authorities or trustees contemplate contracting out information management services. The report of the British Columbia Information and Privacy Commissioner on the implications of the USA Patriot Act and concerns raised by the Privacy Commissioner of Canada have resulted in much closer scrutiny of contracting out opportunities and proposals.

Legislative Amendment

The FOIP and LA FOIP Acts remain largely unchanged since they were first passed by the Legislative Assembly in 1992. In the intervening 12 years many weaknesses and shortcomings in those statutes have been identified. These include the omission of any requirement to protect personal information, no ability for public bodies to deal with frivolous and vexatious requests for access, inadequate provisions to deal with shared services such as SchoolPlus, and the omission of an offence for the destruction of records in order to frustrate an access request. Other suggested changes have been identified in our Annual Report for 2003-2004, available at www.oipc.sk.ca.

In the event that the Assembly undertakes a review of this legislation, our office would be available to act as a resource to provide advice and comment to the Assembly or any Select Special Committee tasked by the Assembly to review the statutes. We view amendment of these statutes as a priority item.

Core Businesses, Goals, Strategies and Measures

Excellence in the OIPC

In all of our core businesses, as we oversee access to Saskatchewan information and protection of privacy, we aspire to meet the highest standards of professionalism and competence.

There has been a proliferation in laws addressing privacy and access to information. The challenges presented by rapidly changing information technology and the expansion of surveillance practices are increasing exponentially. It will be important for the OIPC to continue to be current with changes in the information management field in order to assist residents of Saskatchewan in exercising their 'information rights'.

All investigatory staff in our office will be registered in the online Information Access and Protection of Privacy Certificate Program (IAPP) offered by the University of Alberta if they have not already completed that program when they join our office.

We will ensure that our office has a current library of relevant access and privacy texts, periodicals and materials as well as access to relevant on-line resources.

Our staff will maintain regular communication with other Information and Privacy Commissioner offices in Canada and outside of Canada.

Our staff will attend relevant conferences and will use other learning opportunities.

We will attempt to develop specific capacity in the office in terms of experience with the delivery of health services. This will likely be done by hiring a person who will serve as our 'HIPA lead'.

We will attempt to develop specific capacity in terms of computer technology. This will likely be done by hiring a person who will serve as our 'technology lead' in this office.

Core Business 1: Reviews of decisions on access requests

Goal 1 ***Reduce time to complete reviews***

What it means

Information delayed is often information denied. The risk of failing to achieve this goal is likely to include the following:

- Diminished respect for this independent office.
- Increased public cynicism about government transparency.
- Degradation in the citizens' fundamental right to know.
- Lower accountability standards for public bodies.

The OIPC will focus on reducing the time it takes to move a file to either mediation or to the issuance of a report.

Strategies

We currently have approximately 150 active files for review. This is approximately a 100% increase over the number of active review files in the preceding year. There is only the Commissioner and the Assistant to the Commissioner to do the gathering of material, the inspection of the file, discussions with the public body and with the applicant, defining the issues, reviewing submissions by both parties, assessing and initiating mediation where possible and where mediation is not possible, to research the issues and draft the report. Some of the reports are not issued until almost a year after the original request for review is submitted. To reduce the time for our office to complete its review, we will do two things:

1. We will hire two portfolio officers and one administrative support staff prior to October 1, 2005.
2. We will hire one portfolio officer and one administrative support staff in 2006-2007.
3. We will hire one portfolio officer in 2007-2008.
4. We will attempt to encourage more mediation. We recognize that part of the delay is caused by public bodies that fail to respond in a timely way or that fail to undertake an adequate search for responsive records or that do not submit either the record or their submission in a timely way.

Performance measures

2005-2006

Complete all pending reviews and resolve the current backlog.

Commencing January 1, 2006, 80% of all reviews to mediation or report stage within five months.

2006-2007

80% of all reviews to mediation or report stage within five months.

2007-2008

80% of all reviews to mediation or report stage within five months.

Core Business 1: Reviews of decisions on access requests

Goal 2 ***Publish a body of review reports and recommendations***

What it means

There is important educative value in publishing full reports issued after a review by the OIPC. Such reports can provide useful guidance to FOIP Coordinators and heads of government institutions and local authorities and hopefully improve compliance with the relevant statutes.

The risk of failing to achieve this goal is likely to include the following:

- Confusion and uncertainty as to the OIPC interpretation of the legislation.
- Inertia and lack of progress in improving public body compliance.
- Differential treatment of citizens seeking access depending on the organization.
- Degradation in the citizens' fundamental right to know.

Strategies

We will post the full text or as much of the full text as possible in the circumstances of any particular review to our website, www.oipc.sk.ca. This will include the name of the public body or trustee for reasons of accountability. This will not normally include the name of the applicant to respect the privacy of that individual. We will also develop an index that allows a visitor to the website to readily identify those reports that address specific sections of the applicable legislation.

Performance measures

2005-2006

Publish at least 15 reports from reviews on the OIPC website.

2006-2007

Publish at least 25 reports from reviews on the OIPC website.

2007-2008

Publish at least 25 reports from reviews on the OIPC website.

Create a section index of all review reports done by the OIPC.

Core Business 1: Reviews of decisions on access requests

Goal 3 ***Increase awareness on the part of government institutions, local authorities and health information trustees of statutory requirements***

What it means

Our office has identified a substantial need for more awareness on the part of staff in public bodies, including government institutions, local authorities and trustees about the requirements of the FOIP Act, LA FOIP Act and HIPA. A lack of written procedures and formalized training was also identified by the Deloitte Touche Privacy Assessment that preceded the Privacy Framework. This need is much broader than training that has already been undertaken under the auspices of the Privacy Framework. The latter does not address the goal of greater government transparency and is only focused in part on Part IV of the FOIP and LA FOIP Acts dealing with privacy. The risk of failing to achieve this goal is likely to include the following:

- Inconsistent treatment of applicants and access requests.
- Failure to meet the standards required by legislation.
- Lower accountability standards for public bodies.

Strategies

We will continue to work with the Department of Justice, the Department of Health, the Department of Government Relations, the Public Service Commission and the Crown Investment Corporation to promote templates and materials for FOIP and HIPA training. We will also continue to meet with managers and employees in public bodies to explain their statutory obligations and the role of our office.

Performance Measures

2005-2006

Collaborate with appropriate departments and agencies to develop Frequently Asked Questions for municipal governments, schools and health information trustees.

Ensure all presentations from the October, 2004 *Privacy and Health Information: Making It Work* conference are available on the OIPC website, www.oipc.sk.ca.

Produce our electronic newsletter the Saskatchewan "FOIP FOLIO" on a monthly basis and make this available to our base of approximately 1100 subscribers.

Increase the number of subscribers to the Saskatchewan FOIP FOLIO.

2006-2007

Collaborate with appropriate departments and agencies to develop Frequently Asked Questions for government institutions.

Identify partners to co-sponsor a major Saskatchewan conference on access and privacy to highlight best practices and to identify problem areas.

Increase the number of subscribers to the Saskatchewan FOIP FOLIO.

2007-2008

Collaborate with appropriate departments and agencies to develop Frequently Asked Questions for local authorities other than municipalities.

Ensure that education presentations have been completed in every department, every crown corporation, every provincial board and agency, every school division, all urban municipalities, each of rural municipality zones, every health region, every university and college campus.

We will continue to work with the Department of Learning, Health, Justice and Government Relations to assist municipalities, health regions and health professions, departments, crown corporations, provincial boards and agencies to provide support to their constituent organizations.

Increase the number of subscribers to the Saskatchewan FOIP FOLIO.

Core Business 2: Review of breach of privacy complaints

Goal 4 ***Reduce time to complete investigations***

What it means

Given the importance that the Saskatchewan government has assigned to privacy protection, it will be necessary to ensure that investigations of privacy breaches are completed without undue delay. The risk of failing to achieve this goal is likely to include the following:

- Diminished respect for this independent office.
- Increased public cynicism about privacy protection.
- Degradation in the citizens' fundamental right of privacy.
- Lack of confidence in public bodies and increased reluctance to allow public bodies to collect, use and disclose personal information.

Strategies

The efforts to expedite privacy investigations should parallel initiatives to reduce the time to complete access reviews. Since privacy protection is an equal objective of the FOIP and LA FOIP statutes, this area should receive the same kind of attention described in this plan for access to information. Many of the comments above in the discussion of Core Business 1 apply in this section also.

To reduce the time for our office to complete investigations, we will hire additional staff and train those staff as indicated in Goal 1 above.

Performance Measures

2005-2006

Complete all pending investigations and resolve the current backlog.

Commencing January 1, 2006, 80% of investigations to report stage within five months.

2006-2007

80% of all investigations to report stage within five months.

2007-2008

80% of all investigations to report stage within five months.

Core Business 2: Review of breach of privacy complaints

Goal 5 ***Publish a body of investigation reports***

What it means

Investigations are usually started in response to a complaint or a particular event that comes to our attention. It is therefore more difficult to predict the volume of privacy complaints than it is to predict access requests. The risk of failing to achieve this goal is likely to include the following:

- Public bodies cannot learn from experiences of others.
- Lack of predictability in interpreting the legislation.

Strategies

We will post the full text or as much of the full text as possible in the circumstances of any particular investigation to our website, www.oipc.sk.ca. This will include the name of the public body or trustee for reasons of accountability. That will not normally include the name of the complainant to respect the privacy of that individual. We will start to initiate a number of investigations to assess compliance with applicable legislation, if time and resources permit.

Performance Measures

2005-2006

Publish a report on at least one office-initiated investigation.

2006-2007

Publish reports on at least four office-initiated investigations.

2007-2008

Publish reports on at least four office-initiated investigations.

Core Business 2: Review of breach of privacy complaints

Goal 6 ***Increase awareness on the part of government institutions, local authorities and health information trustees of statutory requirements***

What it means

See the discussion of Goal 3 above.

Strategies

See the discussion of Goal 3 above. The same strategies would apply here.

Performance measures

See the discussion of Goal 3 above. The same performance measures would apply here.

Core Business 3: Trustee/Government Institution/ Local Authority Compliance

Goal 7 ***Improve overall compliance by government institutions, local authorities and health information trustees with respect to FOIP, LA FOIP and HIPA***

What it means

Of fundamental importance is the role of the OIPC in ensuring that government institutions, local authorities and trustees fully comply with the appropriate legislation. This is done by reinforcing the accountability that each trustee and each 'head' of a government institution or local authority has to respect the information rights of Saskatchewan residents.

The risk of failing to achieve this goal is likely to include the following:

- Citizens will continue to be denied the full benefit of the information rights to which they are entitled.
- Public bodies will continue to wrestle with problems, gaps and shortcomings in the existing legislation and expend unnecessary energy and resources to no good end.

Strategies

In addition to goals 1 through 6 inclusive, we will achieve this goal by monitoring the actions of government institutions, local authorities and trustees that impact the information rights of Saskatchewan residents, and by undertaking site visits and compliance audits. We will also work to promote training, the development of educational materials and to publish standards and best practices for these organizations.

Performance measures

2005-2006

Publicly identify public bodies that unduly delay in responding to applicants or to the OIPC.

Publish a protocol for site visits by the OIPC.

Undertake at least two site visits to trustee facilities.

2006-2007

Develop a format for 'report cards' on public bodies that highlight their response to access requests.

Undertake ten site visits to trustee facilities.

Undertake five site visits to government institutions and local authorities.

2007-2008

We will produce annual 'report cards' on public bodies that serve to highlight their response to access requests.

Undertake 15 site visits to trustee facilities.

Undertake 15 site visits to government institutions and local authorities.

Core Business 3: Trustee/Government Institution/ Local Authority Compliance

Goal 8 ***Publish aids and tools that will assist public bodies in statutory compliance efforts***

What it means

The OIPC has identified a need for Saskatchewan-based and Saskatchewan appropriate materials, check-lists and models to assist public bodies comply with applicable legislation. The risk of failing to achieve this goal is likely to include the following:

- Advice from our office will be provided publicly after programs are commenced or legislation is enacted and revision is much more difficult and more expensive.

Strategies

Our office can provide value by developing, in collaboration with the appropriate public bodies and outside resources, teaching materials, check-lists and models to assist with statutory compliance.

Performance measures

2005-2006

Publish Privacy Impact Assessments and explanatory notes on the website, www.oipc.sk.ca, for health information trustees, for local authorities and for government institutions.

Publish advisory material to reflect areas of concern and confusion among government institutions, local authorities and trustees.

2006-2007

Publish advisory material to reflect areas of concern and confusion among government institutions, local authorities and trustees.

2007-2008

Publish advisory material to reflect areas of concern and confusion among government institutions, local authorities and trustees.

Core Business 4: Clarifying the Access and Privacy Regime In Saskatchewan

Goal 9 ***Provide advice to the Legislative Assembly on the consolidation and amendment of the FOIP and LA FOIP Acts***

What it means

The FOIP and LA FOIP Acts are deficient in achieving the purposes of such legislation. There is an urgent need to amend this legislation to ensure that it works properly from the perspective of government institutions and local authorities as well as for the public.

The risk of failing to achieve this goal is likely to include the following:

- Citizens will continue to be denied the full benefit of the information rights to which they are entitled.
- Public bodies will continue to wrestle with problems, gaps and shortcomings in the existing legislation and expend unnecessary energy and resources to no good end.

Strategies

To catalogue the deficiencies in the FOIP and LA FOIP Acts and to communicate same to the Department of Justice in particular, and to the Legislative Assembly. To provide assistance and advice to the Legislative Assembly at such time as the legislation is reviewed.

Performance measures

2005-2006

To provide a comprehensive list to the Legislative Assembly of the amendments this office believes necessary to achieve the purpose of the FOIP and LA FOIP Acts.

To provide commentary in Annual Report.

2006-2007

To provide commentary in Annual Report.

2007-2008

To provide commentary in Annual Report.

Core Business 5: Public Education

Goal 10 ***Undertake public education initiatives throughout the province with a wide variety of organizations***

What it means

Citizens need to know what information rights they have and how to exercise those rights. Saskatchewan is a large geographic area with many small communities. It will be important to make education opportunities available to Saskatchewan residents regardless of where they live in this province. Information must be made as accessible as possible.

The risk of failing to achieve this goal is likely to include the following:

- Saskatchewan residents will not be aware of their information rights and how to exercise them.

Strategies

We will continue to partner with other organizations as we started to do in 2004-2005. This includes such bodies as the Saskatchewan Institute of Public Policy, the Saskatchewan School Boards Association, Saskatchewan Public Legal Education Association, Saskatchewan Legal Education Society, Saskatchewan Law Reform Commission and Carlton Trail Regional College. In many cases this involves the partner organizing a session, advertising, booking a facility and our office provides a resource person and handout material.

Performance Measures

2005-2006

Make at least 50 presentations to a wide variety of audiences in a number of different Saskatchewan communities.

Produce a series of brochures on access and privacy issues for citizens.

2006-2007

Make at least 100 presentations to a wide variety of audiences in a number of different Saskatchewan communities.

Produce brochures on access and privacy issues for citizens.

2007-2008

Make at least 120 presentations to a wide variety of audiences in a number of different Saskatchewan communities.

Increase the base of subscribers to the Saskatchewan FOIP FOLIO.

Produce brochures on access and privacy issues for citizens.